

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NB GATHERING IX PREF, LLC, §
§
Plaintiff, § CASE NO. 3:20-cv-03491-K
v. §
PATRICK NELSON, §
§
Defendant. §

**DEFENDANT'S APPENDIX IN SUPPORT OF RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND MOTION TO EXCLUDE**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to Northern District of Texas Local Rule 56.6, Defendant Patrick Nelson (“Nelson”), by and through counsel, files this Appendix to its Brief in Support of his Response in Opposition to Plaintiff’s Motion for Summary Judgment and Motion to Exclude. This Appendix is filed contemporaneously with Nelson’s Response in Opposition to Plaintiff’s Motion for Summary Judgment and Motion to Exclude, and Nelson’s Brief in Support of said Response.

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served upon all counsel of record in this matter on October 4, 2021 via the Clerk's CM/ECF electronic filing system.

/s/ Greg C. Noschese
Greg C. Noschese

APPENDIX

Exhibit A: Declaration of Pat Nelson.....4

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§
Plaintiff, §
§
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PATRICK NELSON, §
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Defendant. §

CASE NO. 3:20-cv-03491-K

**PATRICK NELSON'S DECLARATION IN SUPPORT OF RESPONSE IN OPPOSITION
TO NB GATHERING IX PREF, LLC'S MOTION FOR SUMMARY JUDGMENT**

I, Patrick Nelson, hereby declare under penalty of perjury in accordance that the following is true and correct:

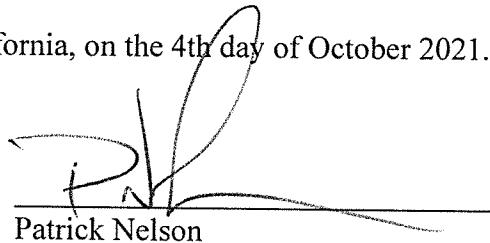
1. "I am over the age of 21 years, have never been convicted of a felony or a crime involving moral turpitude, and have never been adjudged incompetent. I am competent and qualified in all respects to make this Declaration. The statements stated in this Declaration are within my personal knowledge and are true and correct.
2. More than \$11,000,000 million has been paid in fulfillment of the obligations at issue, which began as an initial \$12,500,000 equity investment.

3. I dispute the approximate \$5.2 million amount set forth in Plaintiff NB Gathering IX Pref, LLC's ("Plaintiff") Motion for Summary Judgment as the amount remaining to be paid.

4. I further dispute the calculation of the total default interest amount listed on Plaintiff's investment ledger, labeled as Exhibit A-5 to Plaintiff's Motion for Summary Judgment. The default interest amount is incorrect, and does not indicate that it is the agreed-upon interest amount due and payable under the Operating Agreement between NP Equity, LLC and Plaintiff. The schedules allegedly supporting the default interest do not identify any column

showing the calculation of default interest. Instead, they identify columns for something called accrual, forbearance interest and ending accrual/basis investment which I have been unable to find identified or labelled as such in the documents forming the basis for the disputed transaction.”

Executed in Orange County, State of California, on the 4th day of October 2021.



A handwritten signature in black ink, appearing to read "P.N.", is written over a horizontal line. Below the line, the name "Patrick Nelson" is printed in a standard font.